

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
RECEIVED
NORTHERN Division

LARYIE EARL JONES,

✓ Petitioner
U.S. DISTRICT COURT
MIDDLE DISTRICT ALA

ANTHONY CLARK,
RESPONDENT. .

CIVIL ACTION No.

2:05-CV-701-F

AFFIDAVIT OF JONES

STATE of ALABAMA

COUNTY of Covington

ST: BEFORE ME, THE UNDERSIGNED PERSONALLY
APPEARED LARYIE EARL JONES, PRO, SE, WHO BEING
KNOWN TO ME AND BEING FIRST DULY SWEORN, DEPOSES
AND SAY AS FOLLOWS;

1. My NAME IS LARYIE EARL JONES, I AM AT THE COVINGTON COUNTY JAIL UNLAWFULL, I HAVE BEEN SINCE THE JULY 14 2004. I AM A RESIDENT CITIZEN OF THE STATE OF ALABAMA, COVINGTON COUNTY, AND AM OVER THE AGE OF NINETEEN YEARS.
2. I HAVE FULL KNOWLEDGE OF THE FACTS TO WHICH I AM TESTIFYING AND I AM COMPETENT TO TESTIFY.
3. ON OR ABOUT THE 9-17-2002 IN CC-2003-187 WHEN I FIRST WAS ARRESTED, I DID NOT HAVE ANY REASON TO BE INDICTED ON CASE CC-2003-187, I HAD SERVED MY TIME AND THE OFFICERS MADE A DEAL. SEE

IN MY ANSWER REPORT, OF PROCEDURAL HISTORY
 I WAS VIOLATION OF DOUBLE JEOPARDY CLAUSE. U.S.
 C.A. CONST AMEND. 5. I WAS INDICTED^{IN} THE 2-14-
 2003, NOW WHAT HAPPEN FROM THE DAY I WAS ARREST-
 ED TIL THE 9-27-2005? WHO VIOLATED SANCTION FROM
 THAT TIME? VIOLATED HAD TAKEN PLACE SINCE THE 9-17-
 2002. TO THE 9-17-2003 IN CASE CC-2003-187, THE
 STATE FAIL TO TRY THE PETITIONER WITHIN THE TIME
 LIMIT. SEE THE RESPONDENT'S ANSWER, IN THERE PROCEDURAL
 HISTORY, WHERE IT STATED THE FIRST INDICTMENT, CC-2003-
 187, WAS RETURNED ON FEBRUARY 14, 2003, THAT IS
 FIVE MONTHS FROM TIME THE PETITIONER WERE ARRESTED
 9-17-2002 TIL 2-14-2003 BEFORE I WAS INDICTED.
 IN THE Book of THE CODE OF THE LAWS OF THE UNITED
 STATES OF AMERICA, TITLE -18-CRIMES AND CRIMINAL
 PROCEDURE. CHAPTER 208 - SPEEDY TRIAL, SECTION 3161.
 TIME LIMITS AND EXCLUSIONS. (B), ANY INFORMATION OR
 INDICTMENT CHARGING AN INDIVIDUAL WITH THE COM-
 ISSION OF AN OFFENSE SHALL BE FILED WITHIN THIRTY
 DAYS FROM THE DATE ON WHICH SUCH WAS ARRESTED
 OR SERVED WITH A SUMMONS IN CONNECTION WITH
 SUCH CHARGES. IF AN INDIVIDUAL HAS BEEN CHARGED
 WITH A FELONY IN A DISTRICT IN WHICH NO GRAND
 JURY HAS BEEN IN SESSION DURING SUCH THIRTY-
 DAYS PERIOD, THE PERIOD OF TIME FOR FILING OF THE
 INDICTMENT SHALL BE EXTENDED AN ADDITIONAL 30,
 DAYS. THE ATTORNEY FOR THE GOVERNMENT FAIL TO
 COMPLY WITH THIS SECTION IN VIOLATION OF SANCTIONS.

AND THE ATTORNEY FOR THE GOVERNMENT FAIL TO DISMISS THE INDICTMENT, BECAUSE INDICTMENT WERE LEGALLY INSUFFICIENT, IN CASE CC-2003-187. DELAY BEFORE TRIAL WAS UNCOMMONLY LONG.

4. IN CASE CC-2003-418, I WAS ARREST ON MAY 14, 2003, I WAS INDICTED ON THE 9-17-2003, THE INDICTMENT WERE LEGALLY INSUFFICIENT SAME AS IN CASE CC-2003-187. DELAY WAS UNCOMMONLY LONG I SUFFERED PREJUDICE.

5. IN CASE CC-2003-419, I WAS ARREST ON JUNE 11, 2003 I WAS INDICTED ON THE 9-17-2003, ALL THESE CASES WERE LEGALLY INSUFFICIENT, CC-2003-187-418-419 MY CONDUCT WAS NOT "SERIOUS" CRIME, THE PROSECUTOR'S NEGLIGENCE, AND FAILURE TO COMPLY WITH TIME REQUIREMENTS OF THIS CHAPTER AND ADMINISTRATION OF JUSTICE SHOULD BEING SERVED BY DISMISSING PROSECUTION WITH PREJUDICE BECAUSE OF SANCTION VIOLATION, AND I WAS NOT BROUGHT TO TRIAL WITHIN TIME LIMIT, FROM THE 9-17-2002 TO [REDACTED] IN CC-2003-187, IT WAS NOT MY FAULT, IN CC-2003-418, FROM MAY 14, 2003 TO 5-11-2004, IN CASE CC-2003-419; FROM 6-11, 2003 TO [REDACTED] - 2004, IT WAS NOT MY FAULT, BECAUSE IT WAS THE FAULT OF THE PROSECUTOR'S. I NEVER FILE ANY MOTIONS FOR CONTINUED IN THE YEAR OF 2003 OR 2004.

6. I WAS ARRESTED IN CASE CC-2003-187, ON REVOCATION OF BOND ON OCTOBER 30, 2003, SEE EXHIBIT (D) I FILE MOTION FOR BOND OR REINSTATE BOND IT WAS GRANTED I WAS RELEASE ON 2-28-2004, MY BOND IN CASE CC-2003-187-418-419 WAS A \$25,000 AND A \$50,000 I POSTED BOND ON 2-28-2004. I WAS ARRESTED AGAIN ON JUNE 22-2004 FOR NON SUPPORT IN GENEVA

COUNTY AND I FAIL TO APPEAR IN COURT IN COVINGTON COUNTY, I WAS RELEASED FROM GENEVA COUNTY BECAUSE OF MY CHEST PAIN THE JUDGE RELEASED ME, I CAME TO COVINGTON COUNTY BEEN HERE EVERY SINCE JULY 14-2004 SEE EXHIBIT (E) MY BOND WAS REVOKED FOR NO REASON, AND LIMITATION OF STATUTE HAD ALREADY EXPIRED IN CC 2003 187-418-419¹⁸⁷ 10-29-2004⁴¹⁸⁴¹⁹

7. I FILED A MOTION FOR FAST AND SPEEDY TRIAL IN CC 2003 187-418-419¹⁸⁷ 10-29-2004 IT NEVER WAS RULE UPON SO I TOOK IT AS DENIED. SEE EXHIBIT (F). THESE DELAYS IS CHARGEABLE TO THE PROSECUTION, HE WAS NEVER READY.
8. I FILED A REQUEST FOR PRODUCTION BY STATE ON 9-10-04, IT NEVER WAS RULE UPON SO I TOOK IT AS DENIED. SEE EXHIBIT (G). THE STATE NEVER PRODUCED. I WAS NOT RESPONSIBLE FOR DELAYS, PROSECUTIONS ME TRIAL DENIED.
9. I FILED A MOTION FOR PRE-TRIAL DETERMINATION OF ADMISSIBILITY OF EVIDENCE, ON 9-16-2005, IT WAS NEVER RULE UPON SO I TOOK IT AS A DENIED, SEE EXHIBIT (H). A HEARING WERE NEVER SET.
10. I FILED A MOTION TO STRIKE SURPLUSAGE FROM INDICTMENT OR INFORMATION, IT WAS NEVER RULE UPON SO I TOOK IT AS DENIED, IT WAS FILED 9-16-2005. SEE EXHIBIT (I) A HEARING WERE NEVER SET.
11. I FILED MOTION FOR CHANGE OF PLACE OF TRIAL OR DISMISS THE INDICTMENT ON THE 8-11-2005 IT WAS DENIED SEE EXHIBIT (C). A HEARING WERE NEVER SET. AFTER THE STATUTE OF LIMITATION HAD AT

EXPIRE THAT WHEN I BEINGING TO FILE MOTION AND PETITION,
12. I FILED A MOTION FOR A BAIL PENDING THE HEARING
OF ARRAIGNMENT TO WITHDRAW PLEA OF GUILTY. SEE
EXHIBIT(J) DENIED.

AS THESE CASES MY CONSENT OF ANY
CONTINUED IS BECAUSE OF EXHIBIT(B). AND
EXHIBIT(K) I WAS ENTITLED TO RELIEF BEFORE
THIS PETITION WAS FILED, I WAS DENIED
A SPEEDY TRIAL, I HAVE DEMONSTRATED THE
SPECIAL CIRCUMSTANCES NEEDED TO REQUIRE
THIS COURT TO GRANT HABEAS CORPUS RELIEF
ON A MOTION RAISING A SPEEDY TRIAL ISSUE OR A
REQUEST FOR IMMEDIATE RELEASE FROM CUSTODY,
BECAUSE THIS CLAIM IS SUFFICIENT TO OBTAIN
HABEAS HABEAS RELIEF, SEE ALL EXHIBITS AS MARK
AS EVIDENCE, REAL EVIDENCES, THE TRIAL JUDGE WILL
NOT LET ME FILE ANYTHING IN HIS COURT'S.

* 13. THE RESPONDENT'S DENIED THAT I WAS UNDER A EXCESSIVE \$200,000 BAIL FOR THE CHARGES OF POSSESSION
OF DRUG PARAPHERNALIA, AND BECAUSE OF RE~~SUE~~ I WAS
CHARGE WITH POSSESSION OF A CONTROLLED SUBSTANCE.
MY BOND WAS \$200,000 FOR SOMETHING I DID NOT
DO ON JUNE 22 2004 A LADY WAS RIDDEN WITH
ME THE OFFICERS FOUND A SMOKING DEVICE, I WAS
SAMPLED CHARGE. SEE EXHIBIT(L) I HAVE COPY OF THE INDICT
CASE 2004-6-MENT, IN CASE CC-2004-347 THIS CASE WAS NOLLE
PROSED. SEE EXHIBIT(B) AND BECAUSE OF LACK OF
EVIDENCE, AND DID NOT BRING ME TO TRIAL ~~THE~~
WITHIN THE TIME LIMIT, LACK OF CONTROLLED SUBSTANCE

14. IN CASE CC-2003-187-418-419, ON THE 9-27-05 THE SENTENCE IMPOSED ON ME WAS NOT WITHIN LIMITATION OF STATUTE, AND IT CONSTITUTIONAL ISSUE IS PRESENTED FOR FEDERAL HABEAS CORPUS COURT. BECAUSE STATE FAIL FAIL TO DISMISS INDICTMENTS ON SAME GROUNDS AS IN CC-2004-347.
15. IN FEDERAL HABEAS PROCEEDING IT IS MY BURDEN TO ESTABLISH THAT THE MERITS OF AN ISSUE WERE NOT RESOLVED AGAINST ME IN FAIR AND FULL PROCEEDINGS IN THE STATE COURT, I AM GOING TO DEMONSTRATE THAT I HAS RIGHT TO FEDERAL HABEAS CORPUS RELIEF AND I WILL ALLEGE SPECIFIC FACTS THAT SHOW FEDERAL RIGHT IS INVOLVED. AND I WILL WANT RELIEF BY PREPONDERANCE OF EVIDENCE, COLLATERAL ATTACK WILL FAIL, AND FACTS WHICH WOULD SUPPORT MY CLAIM FOR RELIEF, I WILL ESTABLISH BY PREPONDERANCE OF EVIDENCE THAT FACTS WILL ENTITLED ME TO BE DISCHARGE FROM CUSTODY, SEE EXHIBIT(B) SAMPLE(2-3-4) SAME AS SAMPLE(1).
16. I WILL SHOW THAT I HAS SUFFERED SIGNIFICANT HARM FOR NO APPARENT REASON BY THE STATE, IT UNEXPLANATION, UNLESS BECAUSE I AM BLACK, I WANT THE STATE TO COME FORWARD, WITH SOME UNEXPLANATION, I HAVE ESTABLISHED A PRIMA FACIE CASE OF ILLEGALITY, BURDEN HAS SHIFTS TO RESPONDENT TO COME FORWARD WITH REBUTTAL EVIDENCE.
17. I WILL PROVE THAT CONSTITUTIONAL ERROR OCCURRED

AND WAS HARMLESS BEYOND REASONABLE DOUBT, AND I WILL PROVE SUBSTANTIAL PREJUDICE AS ESSENCE OF CONSTITUTIONAL VIOLATION, AND AT THE END OF MY TESTIMONY I MUST DEMONSTRATE HOW STATE PUT MY ^{LIFE} IN FEAR. THE ERROR OCCURRED IN THE ORDER OF THE PLEA AGREEMENT ^{I WAS SENTENCED TO ONE YEAR TO SERVED NOT TWO YEARS, JUDGE PUT IN THE ORDER I GET CREDIT.}

18. IN CASE CC-2003-187 I WILL DEMONSTRATE ^{CASE} IN THIS I HAVE BEEN CONSTITUTIONAL VIOLATED, I WAS ARRESTED ON THE 9-17-2002, WHICH I SERVED ALL MY TIME ON, OFFICERS ALSO MADE A DEAL WITH ME, THERE IS NO STATEMENT OF THIS CASE BY ANY OFFICERS, AS IN THE OTHER CASES CC-418 - 419 THERE WERE STATEMENT MADE BY ARRESTING OFFICERS, THAT PROVE THIS WAS DISPOSED OF, ANY WAY THE STATE FOR THE GOVERNMENT STILL FAIL TO TRY ME WITHIN THE LIMITATION OF STATUTE, THE CHARGES SHOULD HAVE BEEN DISMISSAL AFTER THE 9-17-2003 BECAUSE OF STATUTE OF LIMITATION, IT CAN NOT BE MY FAULT, THE PROSECUTOR FAIL BECAUSE OF THE ACT OF NEGLIGENCE HE DID NOT BRING ME TO TRIAL WITH TIME LIMITS, I DID NOT FILE ANY PRO SE MOTIONS OR ANY PETITIONS I WAS CAUSED SUBSTANTIAL PREJUDICE AS ESSENCE OF CONSTITUTIONAL VIOLATION. I DID NOT FILE ANYTHING UNTIL I HAD READ SOME OF THE RULES OF LAW AND THEN I KNOW I WAS BEING VIOLATION, I WAS VIOLATED BEFORE I FILE THIS PETITION I AM ENTITLED TO IMMEDIATE RELEASE FROM CUSTODY, THE RESPONDENTS Admit in PART OF THE SPEEDY TRIAL ISSUE BECAUSE

THE FACT IS THE TRIAL COURT Dismiss CASE CC2004-347, BECAUSE OF THE GROUNDS STATUTE OF LIMITATION.

19 THE RECORD SHOWN THAT IN CC-2003-187-418-419, I WAS ARRESTED IN THESE CASES, BEFORE I WAS ARRESTED IN CC-2004-347, I AM STILL BEING HELD UNLAWFUL AT THE COVINGTON COUNTY JAIL, I WAS DENIED A FAST SPEEDY TRIAL, I did HAVE A EXCESSIVE \$200,000 BAIL WHICH WAS SET BY THE DISTRICT ATTORNEY OR DRUG TAST FORCE THE JUDGES HERE IN COVINGTON COUNTY do NOT SET A BAiLS, in CC-2003-418-419, I AM STILL BEING HELD UNLAWFUL BECAUSE IN CC-03-418 I WAS ARRESTED ON THE 5-14-03 THE STATE FAIL TO TRY ME WITHIN ~~5-14-04~~ I SHOULD HAVE BEEN RELEASE FROM CUSTODY, BECAUSE OF STATUTE OF LIMITATION, IN CC-2003-419, I WAS ARRESTED JUNE 11, 2003, THE STATE FAIL TO TRY ME WITHIN JUNE 11, 2004 BECAUSE OF STATUTE OF LIMITATION I SHOULD HAVE BEEN RELEASE FROM CUSTODY, WHICH VIOLATED MY RIGHTS. I ALSO FEAR FOR MY LIFE I AM IN DANGER, BECAUSE OF THE STATE BY FAIL TO REWARD ME ON JUNE 22, 2004 THE OFFICERS AND AGENTS TOLD ME IF I TURN UP OR give THEM INFORMATION THAT WOULD LEAD TO AN ARREST OR CONVICTION THEY WOULD HAVE CC-2003-187-418-419 DROP AND DISPOSE OF MY REWARD WOULD BE A RELEASE, THE STATE FAIL TO UP HELD THERE AGREEMENTS, I did give THEM TITE INFORMATION AND it did LEAD TO

ARREST AND A CONVICTION ON THE JUNE 23-2004
THAT WHEN THE ARREST WAS MADE, THE CONVICTION
WAS IN NOV 2004, NOW HE HAS COME BACK FROM
~~████████~~ PRISON, HE HERE AT THE COUNTY JAIL WITH
ME I THINK HE KNOW I did it To Him, I do
FEAR FOR MY LIFE AND THE DANGER FOR MY FAMILY.
I AM IN A BLOCK HE IS IN D BLOCK, THE STATE
FAIL TO REWARD ME, AND FAIL TO GIVE ME SECURITY
THEY WANT ME TO GO TO PRISON, SO I WILL GET KILLED
I AM A INFORMER I AM ENTITLED TO BE DISCHARGE FROM
THIS UNLAWFUL INCARCERATION, AN IMMEDIATE, I HAVE AN
HEARING SET FOR 12-1-05 TO WITHDRAW MY PLEA, BECAUSE
OF JAIL CREDIT, THE COURT ~~SHOULD~~ DISMISS THESE CASES 187-
418-419. I HOPE SO AND I AM PRAYING THE COURT WILL.
I HAVE DEMONSTRATED ALL THE VIOLATION THE TRIAL COURT
HAS DONE TO ME AND THE PETITION SHOULD BE GRANTED
AS A MATTER OF LAW AND THE PROSECUTION IS CHARGEABLE.
RESPECTFULLY SUBMITTED THIS THE 22 DAY OF NOV, 2005

Sayej Earl Jones

SIGNATURE OF PETITIONER

I DECLARE UNDER PENALTY OF PERJURY THAT THE ABOVE
FOREGOING AFFIDAVIT TO SUPPORT ANSWER TO THE RESPONDENTS,
IS TRUE AND CORRECT. 11-22-05

DATE

Sayej Earl Jones
SIGNATURE OF PETITIONER

SWORN TO AND SUBSCRIBED BEFORE ME THIS THE
22 DAY OF NOV, 2005

9

my Commission EXPIRED 1-29-09

Patricia Sweet
NOTARY PUBLIC

CERTIFICATE OF SERVICE
I HEREBY CERTIFY THAT ON THIS 22 DAY OF
NOV, 2005, I HAVE SERVED COPY TO
ATTORNEY GENERAL / AND AS FOR ALL PARTIES
BY MAILING THE SAME TO EACH BY FIRST
CLASS UNITED STATES POSTAL SERVICE
THIS IS A TRUE AFFIDAVIT.

Larry Earl Jolley
SIGNATURE OF PETITIONER